

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF VERMONT

|                                |                        |
|--------------------------------|------------------------|
| Irina Assur,                   | :                      |
| Plaintiff,                     | :                      |
|                                | :                      |
| v.                             | : File No. 2:06 CV 239 |
|                                | :                      |
| Edward Adrian, Jessica Porter, | :                      |
| Christopher Winters, Central   | :                      |
| Vermont Medical Center,        | :                      |
| Roseanne Palmer, Helen Spring, | :                      |
| Rick Theken, and Daria Mason,  | :                      |
| Defendants.                    | :                      |

ORDER

The Report and Recommendation of the United States Magistrate Judge was filed August 10, 2007. Defendants' objections were filed August 24, 2007 and Plaintiff's objections were filed on August 27, 2007.

A district judge must make a *de novo* determination of those portions of a magistrate judge's report and recommendation to which an objection is made. Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b) (1); *Perez-Rubio v. Wyckoff*, 718 F.Supp. 217, 227 (S.D.N.Y. 1989). The district judge may "accept, reject, or modify, in whole or in part, the magistrate's proposed findings and recommendations." *Id.*

After careful review of the file, the Magistrate Judge's Report and Recommendation and the objections, this Court ADOPTS the Magistrate Judge's recommendations in full.

Plaintiff has the burden to establish that the doctrine of

equitable tolling is permitted. However, the Court is mindful that Plaintiff appears pro se. Each of the issues raised by Defendants should be addressed upon completion of discovery at the summary judgment stage. At that time, Plaintiff must come forward with sufficient evidence adduced during discovery to address issues raised by Defendants.

The hospital defendants' motion for judgment on the pleadings (Paper 13) is **DENIED** without prejudice. In addition, the State defendants' motion to dismiss (Paper 20) is **GRANTED**, and their motion to abstain (Paper 23) is **DENIED** as moot. Plaintiff's motion for reimbursement of costs (Paper 35) is **DENIED**.

Dated at Burlington, in the District of Vermont, this 14th day of September, 2007.

/s/ William K. Sessions III  
William K. Sessions III  
Chief Judge